

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

ILIO'ULAOKALANI COALITION,)	CIVIL NO.04-00502 DAE BMK
a Hawaii, nonprofit corporation;)	
NA 'IMI PONO, a Hawaii)	DECLARATION OF MICHELLE MANSKER
unincorporated association; and)	
KIPUKA, a Hawaii unincorporated)	
association,)	
)	
Plaintiffs,)	
)	
v.)	
)	
DONALD H. RUMSFELD, Secretary of)	
United States Department of)	Hearing:
Defense; and LES BROWNLEE, Acting)	
Secretary of the United States)	Date: November 20, 2006
Department of the Army,)	Time: 9:45 AM
)	Judge: Hon. David A. Ezra
Defendants.)	

DECLARATION OF MICHELLE MANSKER

I, Michelle Mansker, hereby declare that:

1. I am the Natural Resource Manager for the 25th Infantry Division (Light) and U.S. Army, Hawaii, Schofield Barracks, Oahu, Hawaii. I have served in this position since 22 August 2004. I received my MS in Botany in 2002 from the University of Hawaii. I have 11 years of experience as a botanist, including ten years working with and studying native Hawaiian flora. I was previously employed with the U.S. Fish and Wildlife Service between July 2000 and August 2005 and helped write the Biological Opinion (BO) of the U.S. Fish and

Wildlife Service (USFWS) for Routine Military Training and Transformation of the 2nd Brigade 25th Infantry Division (Light) on Oahu (2003).

2. I would like to comment on the Army's Natural Resource Program in relation to possible effects to listed species from ongoing transformation activities and comment on statements made in the October 18, 2006 Emergency Motion Under Circuit Rule 27-3(b), No. 05-15915 ("Emergency Motion"). Based on my best professional judgment, with implementation of the Army's Natural Resource Program and the USFWS Biological Opinions, I expect there to be minimal long-term, if any, effects to listed species by continuing to implement transformation projects and activities.

3. The Army consulted with the U.S. Fish and Wildlife Service in 2002 for transformation activities on Oahu and PTA in three separate Biological Assessments. The Service is required to issue either a jeopardy or non-jeopardy opinion based on the documents and information provided by the Army. To jeopardize the continued existence of a species is to engage in an action that reasonably would be expected, directly or indirectly, to reduce appreciably the likelihood of both the survival and recovery of a listed species in the wild by reducing the reproduction, numbers, or distribution of that species (50 CFR §402.02).

4. There are no listed species found near or within any of the current or planned construction projects including but not limited to, Qualification Training Range 1 & 2, the Schofield Barracks Battle Area Complex, Urban Assault Course, SBCT Motorpool, Helemano Trail, and Combined Arms Collective Training Facility at Kahuku Training Area. The only construction site that contains a listed species or its habitat is the PTA BAX. The Army is offsetting the effects to the species in the PTA BAX by bolstering populations elsewhere on PTA by controlling the threats to the species. This control at PTA includes the construction of an over 21,000 acre fenced area and exclusion of non-native ungulates within the fenced area. The USFWS based their non-jeopardy BO on the measures being taken by the Army to offset the effects from military training. The meaning of a non-jeopardy BO is explained below.

5. The Emergency Motion states that "The sub-alpine tropical dryland ecosystem threatened with destruction at PTA is considered "one of the rarest on the planet" and that "the U.S. Fish and Wildlife Service ("USFWS") has concluded that building the PTA BAX "will result in the complete loss of several occurrences of listed plants and roosting habitat for the [endangered] Hawaiian hoary bat," resulting in "permanent loss of several species and habitat." While these statements are in fact mentioned in the BO for Routine Military Training and Transformation of the 2nd Brigade 25th Infantry Division

(Light) U.S. Army Installations Island of Hawaii, December 23, 2003, Emergency Motion states them out of context. These species and their habitats are found in a variety of location at PTA, not just the BAX area. In addition, they will be located within the 21,000 acre fenced area that the Army has begun constructing this year. The fence will exclude ungulates, the second largest threat to PTA natural resources. The statement regarding the rarity of the dryland ecosystem was actually a statement made by the Army in their Biological Assessment initiating formal consultation. The Army recognizes the need to protect and enhance the natural resources of PTA and provides funding and supports a staff to support environmental programs to protect these rare resources. This year alone, the Army spent over \$3 million dollars on the PTA natural resource program. There is no other agency, including the State of Hawaii, or private entity in Hawaii that spends this amount on on-the-ground conservation of Hawaii's natural resources and listed species. This commitment of funds and resources to protect listed species and their habitat is the reason the USFWS found that the Army's activities associated with both Legacy and Transformation construction and training actions would not result in the jeopardy of listed plant or animal species or destruction of critical habitat. Further, both the PTA and Oahu BOs found that the benefit to the listed species and their habitat from the Army's Natural Resource

Program outweighed the risks associated with effects from training activities.

6. As stated in the Emergency Motion, the Army acknowledges that one large wildfire could have a drastic effect on the biological resources. This is why the Army has implemented its Integrated Wildland Fire Management Plan (IWFMP). The IWFMP was finalized in October 2003. The USFWS outlined the importance of the IWFMP in the issuance of a non jeopardy opinion in its BOs: "The overall goal of the (IWFMP) plan is to reduce the impact of fires by reducing their frequency, size, and severity". "The IWFMP provides comprehensive documentation of the plans, policies, methods, and actions necessary" to achieve this goal. "One of the top priorities" of the plan "is implementation of the Fire Danger Rating System" (FDRS). The FDRS is based on the "local weather and fuel conditions" and "restricts highly fire prone activities during periods of high fire danger" and therefore, reduces the chance that a fire will start. In addition, "fires that are ignited are more likely to occur during periods of low or moderate fire danger, making them easier to control and extinguish". PTA has an even finer level of predicting the FDRS than Oahu because the installation is broken into "smaller fire danger rating areas", allowing for specific microclimate to be taken into consideration at each site. The WFMP also "lays out locations and standards of fire breaks and fuel breaks". "Fuelbreaks are swaths of

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cut, burned, grazed, or otherwise modified vegetation" meant to reduce the spread of a fire. "PTA will contain an extensive network of firebreaks, fuelbreaks, and fuel management corridors, mostly on the north and west sides of PTA" (PTA BO 2003). Schofield Barracks currently has a 30 meter wide fuel break that surrounds the impact area and separates the training area from the sensitive habitat of the listed species found above. The IWFMP also includes Standard Operating Procedures (SOP) for each installation that "outlines the responsibilities, fire prevention, FDRS usage, staffing levels, equipment caches, fuel modifications, proper fire suppression actions, and post fire reports". "The SOP also include fire prevention briefings to be given to range users prior to commencement of training, notification lists in case of fire, operational decision charts for fires, and maps of resources, fuels, fire breaks, and Fuel Management Areas" (PTA BO 2003). In addition to the IWFMP, the Army will have helicopter support on site at PTA during live fire training exercise that have the potential to start fires in areas dominated by invasive grasses and will have an additional helicopter able to arrive within 90 minutes. The Army Garrison Hawaii has also hired a wildland fire crew boss and a crew of ten firefighters who specialize in fighting wildland fire; which are very different than structure fires. This group is the only one of its kind in the Army nationwide and the only one of its kind in Hawaii.

7. The natural resource conservation measures in combination with the measures outlined in the Wildfire Management Plan, resulted in the U.S. Fish and Wildlife Service (Service) issuing non jeopardy biological opinions to the Army regarding training activities on the islands of Oahu and Hawaii. The Service felt that "the risk of the Army's proposed action is outweighed by the long-term benefits from stabilizing" these "species" (Oahu BO). In addition, the Service determined that the high priority stabilization actions the Army is currently implementing and the stabilization actions developed for the Army's implementation plans will benefit the species so that the potential impacts associated with military training activities will be minimized in the short-term and the species will be stabilized in the long-term. Although there could be an initial loss of individuals due to military activities associated with transformation (i.e. the PTA BAX), the conservation measures will result in a net benefit to the species in the long run as the Army will be increasing the overall number of individuals and in some cases the number of populations of these listed plants and snails. Therefore, the USFWS issued their BOs, which conclude that the proposed actions by the Army do not jeopardize the species but instead increase the numbers and distribution of the species and aid with long-term survival and recovery. In addition, the Service found that "the Army training actions described in the Biological Assessment and in the biological

opinion are not anticipated to compromise the conservation and recovery process described" in the Service's Recovery Plans for these species.

8. I would like to take a moment to discuss the contents and importance of the various plans (mentioned above) the Army has developed for the natural resources on its lands as understanding what these plans will accomplish will help the courts understand how the USFWS determined that military activities would not jeopardize the continued existence of the listed species on Army lands or their associated habitats. One such plan are the Integrated Natural Resource Management Plans that the Army has developed for all the training areas in Hawaii. These plans outline the measures the Army plans to take to responsibly manage the training areas to ensure long-term natural resource productivity. The Army's INRMP are so exemplary that the USFWS excluded the designation of critical habitat on Army lands in Hawaii in the 1990's. This exclusion was based on the decision that there was nothing that designating critical habitat would get these habitats above and beyond what the Army is already doing for them.

9. In addition to the INRMPs, the Army is also developing comprehensive management plans, called Implementation Plans, for most of the federally listed threatened and endangered species on the Hawaii Army installations. An example of one such already

implemented plan that is showing success is the Makua Implementation Plan that was completed in 2003 and amended in January 2005. The plan outlines the measures necessary to stabilize 28 listed species. Stabilization of each species includes increasing the numbers of individuals within a pre-selected number of populations to a level that ensures their long-term survival and helps with the overall recovery of the species. Stabilization also entails managing all the outside threats to the populations such as feral pigs, goats, and sheep; non-native plants; non-native mammals and invertebrates; threats to the populations caused by loss of genetic diversity by the decrease in the numbers of plants in the wild; and overall ecosystem health issues. The management of these ecosystem level threats will benefit all native species in the areas, not just those that are federally listed. Over 2,300 acres of prime habitat will be managed on Oahu for the 28 species covered in the Makua Implementation Plan (MIP 2005). The Army plans on spending an average of \$3.3 million per year on these projects alone (MIP 2005). Stabilization of these species is one step towards over-all recovery of the species. All three of the Army's Implementation Plans were or are being developed with the help of the State's best biologists from agencies such as the U.S. Geological Service's Biological Resources Division, State of Hawaii Department of Land and Natural Resources, Koolau Watershed Partnership, Board of Water Supply, Kamehameha Schools, Hawaii

Natural Heritage Program, The Nature Conservancy, USFWS, and various private non-affiliated biologists. This will ensure that the plans are biologically sound and are not just policy documents that will sit on a shelf.

10. A Draft Implementation Plan for 23 listed plant species, four snail species, and one avian species affected by routine military training and transformation activities on Oahu was completed in June 2005. The Oahu plan utilized the same basic premises developed in the Makua Implementation Plan (i.e. stabilization and ecosystem level threat abatement). The Army funded the plan during FY 2006 in the sum of \$1.2 million. This plan will minimize the effects of both Legacy and Transformation activities on listed species.

11. While the Oahu plan was being drafted, the Army natural resource program focused on those Oahu species most threatened by Army activities or by outside threats. These actions include fencing all remaining individuals of a very rare tree species, *Eugenia koolauensis*, in Kahuku Training Area; fencing the only individual of a rare mint, *Stenogyne kanehoana*, found within the Schofield Barracks Military Reservation; and fencing the single individual of *Schiedea kaalae* in Schofield Barracks Military Reservation; alien plant control around listed species populations, and surveys for snails within the Koolau Mountains, Oahu. As a result of these snail surveys, the Army rediscovered two individuals of a snail,

Achatinella bulimoides, thought to be extinct because it had not been seen in the wild since 1985.

12. For the past two years, the Army has managed all the nesting sites of the Oahu Elepaio, a listed bird species, in the Schofield Barracks Military Reservation by setting up rat baiting grids around the known nesting sites. The Army has also developed an official Right of Entry with the Damon Estates to manage the Elepaio in Moanalua Valley and managed those birds through the winter 2005 breeding season. The Army will continue to manage these birds during the breeding season. In addition, the Army works in cooperation with the Nature Conservancy Hawaii, to manage the birds found in the Honouliuli Preserve on the island of Oahu and with the Board of Water Supply, to manage the birds found in Makaha on the island of Oahu.

13. The Army is also currently drafting an Implementation Plan for 15 plant species, the Hawaiian Hoary bat, and several bird species located at Pohakuloa Training Area. The main focus of the PTA plan is construction of a large fence around the western end of the Army lands at PTA that will protect over 21,000 acres of habitat and ecosystem and species enhancement activities within that fenced area. Construction on this fence unit began this year and will be completed by 2009. The USFWS determined that "the western fence unit will incorporate the remaining areas that contain the highest densities of listed plants. This will in turn also benefit the Hawaiian hoary bat

by minimizing habitat degradation to *Sophora* Woodland. The removal of ungulates from these fence areas will allow the listed plant species and their habitats to regenerate naturally" (PTA BO 2003). In addition to the western fence, the Army will construct five fenced units to encompass additional plant populations that will total about 1,500 acres. Construction of one of these units also began in 2006. In addition, surveys for three listed bird species, nene, io, and uau, and the Hawaii hoary bat have begun. The exact nature of the bats use of PTA is unknown at this time so the Army is funding research to determine the importance of the different plant communities to the bat. The research on the bat will help facilitate bat management throughout Hawaii as there is very little known about this species. This plan will also minimize the effects of both Legacy and Transformation activities on listed species.

14. Even before the biological opinions and the development of Integrated Natural Resource Management Plans and Implementation Plans, the Army practiced good stewardship of its natural resources. The Natural Resource Program was developed in 1995 and since has grown from a single individual to over 50 employees. The primary responsibility of these employees is to go out into the forest every day and conduct the on the ground management activities necessary to help recover listed endangered species on Army lands in Hawaii. This year, the Army spent over \$8 million managing the federally listed

species and their habitat on the island of Hawaii and Oahu. The Army has a greenhouse on each island dedicated to growing listed endangered plant species and provides funding to Dr. Mike Hadfield at the University of Hawaii to propagate the listed snail species. In addition, the Army is collecting genetic material, seeds and other plant parts, to be stored in a safe environment to be used for future restoration activities.

15. As a result of the management activities undertaken by the Army, two plant species were recently saved from extinction, *Cyanea superba* and *Cyanea pinnatifida*. Although the last remaining wild individuals of these two species expired (not due to Army activities), the Army had been collecting material from these plants to reintroduce into the wild at a later day. Without this material, the plants would have been lost forever. The Army is also on the cutting edge of field technology by funding studies for control methods of non-native species that are currently uncontrollable. For example, the Army is funding the research of control methods for the non-native slug that preys on the seedling and adult plants of many of the listed endangered plant species on Oahu.

16. The last statement from the Emergency Motion that I would like to clarify is: "Off-road maneuver activity by Strykers will cause additional damage, destroying "native habitat for listed plants and bats at PTA and the recently acquired WPAA." Stryker maneuver areas

are actually restricted to designated areas, none of which contain listed species or their habitat and therefore, will not affect listed species or their habitat. In addition, only existing roads and trails will be used in palila critical habitat as identified by U.S. Army Support Command Hawaii and the USFWS, on August 9, 1978. The only impact from Stryker could be the indirect impact of dust from training settling on plants or the spread of invasive species. To minimize these risks all vehicles will be washed before moving between training areas to remove weed seeds. In addition, a 75-meter (246-foot) buffer will be established prior to training along the northern section of the Stryker off-road maneuver area at PTA adjacent to the large occurrence of *Haplostachys haplostachya*. This buffer will be established to reduce indirect impacts of dust as Stryker vehicles move off-road through this area enroute to the Keamuku Parcel. The Army is also working with various researchers to determine the exact impacts of dust to the vegetation near off-road maneuver areas and will reinitiate with the USFWS should we find additional impacts above and beyond those already analyzed by the USFWS.

17. Given all of the above information, it is my opinion and that of the USFWS that continuation of transformation related training and construction activities will not jeopardize listed species or their habitat because of the Army's extensive natural resource management

program. It should also be noted that the Natural Resource Manager position involves review of current and future training scenarios to ensure that the projects are in compliance with the Endangered Species Act and all other environmental laws. This measure ensures that Army projects incorporate the measures necessary to minimize their impacts on federally listed plant and animal species.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Michelle Mankser

MICHELLE MANKSER

11/11/06

DATE